



Sexual Assault Investigations 2016

This training is required for all commissioned officers.

- Governing Requirements:
 - **WAC 139-05-300**
- Estimated Time to Complete: 1 Hour
- Class Location: Online
- On-line Training Coordinator:
Deputy Kyle McCutchen
- Authors: **Detective Pat Maley** and **Detective Chris Knudsen**



Click here if you would like a copy of this course in PDF format.

Date released: 11/04/2016





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Welcome to the King County Sheriff's Office **Sexual Assault Investigations 2016** online training. This training is required for all commissioned officers. You must be connected to the internet to complete this training. This training should take approximately **1 hour** to complete.

As you progress through the training you will be asked a question that comes from the prior section. You must answer this question correctly to advance to the next section.

After successfully passing this course you will receive **1 hour** of credit towards your mandatory 24 hours of annual training.

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Understanding Sexual Assault

Sexual assault is a profound violation of a person’s body, sexuality, and sense of self and safety. The effects of sexual assault can last a lifetime, rippling out to family members, school and work, communities and down through generations. Sexual assault is an umbrella term that includes a wide range of crimes. A victim may be forced, coerced and/or manipulated into unwanted sexual activity or contact.

Anyone can be the victim of a sexual assault but 80% of victims are under 30 years old and 44% of victims are under age 12¹.

¹www.rainn.org/get-information/statistics/sexual-assault-victims



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Understanding Sexual Assault (cont.)

This training module will review the crimes encompassed under the umbrella of sexual assault and provide a guide for investigating these allegations. At the end of this training module, you will be able to:

- Differentiate between the definitions of rape and rape of a child
- Describe the purpose of the Special Assault Network Agreement
- Identify situations where a SAU callout is necessary
- Conduct thorough, complete preliminary investigations of sexual assault allegations

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Sexual Offenses - Rape

This section is a basic review of sex crimes. They can be found in **RCW 9A.44**.

Rape is generally defined as sexual intercourse without consent. Forcible compulsion elevates the crime to a 1st or 2nd degree charge. Rape can also occur when the victim is incapable of consent “by reason of being physically helpless or mentally incapacitated,” (**RCW 9A.44.050**), or when there is a threat of substantial unlawful harm to property rights of the victim (**RCW 9A.44.060**)

“Consent” means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact (**RCW 9A.44.010**). Consent can be revoked at any time.

“Sexual intercourse,” in addition to its ordinary meaning, occurs upon any penetration, however slight. It includes penetration by objects and can be vaginal, anal, digital or oral.

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Sexual Offenses – Indecent Liberties

Indecent liberties can be charged when a person forces another person to have sexual contact with him, her or another under any of the following circumstances:

- By forcible compulsion
- When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated or physically helpless
- The victim has a developmental disability and the perpetrator
 - Has supervisory authority over the victim, or
 - Was providing transportation within the course of their employment to the victim
- The suspect is a health care provider, the victim is a patient and the sexual contact occurred during a treatment session, consultation, interview or examination
- The victim is a resident of a facility for people with a mental disorder or chemical dependency and the suspect has supervisory authority over the victim
- The victim is a frail elder or vulnerable adult and the perpetrator
 - Has supervisory authority over the victim, or
 - Was providing transportation within the course of their employment to the victim

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Sexual Offenses Involving Children – Rape of a Child

Washington recognizes sixteen (16) as the age at which a juvenile is capable of consenting to sexual activity. The Rape of a Child statutes (**9A.44.073-079**) cover what is commonly referred to as statutory rape. The degree of the crime depends both on the age of the victim and the age difference between the victim and the suspect. All three degrees of rape of a child involve *sexual intercourse* and assume the victim is not married to the perpetrator.

Crime	Victim Age	Suspect Age
1st Degree	Less than 12	At least 24 months older
2nd Degree	At least 12, less than 14	At least 36 months older
3rd Degree	At least 14, less than 16	At least 48 months older

It is not a defense that the suspect did not know the victim’s age or that the suspect believed the victim was older. However, it *may* be a defense (that the suspect must prove by a preponderance of the evidence) if the victim told the suspect they were older.



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Sexual Offenses Involving Children – Child Molestation

Child molestation means any sexual *contact* with a child. “Sexual contact” means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party (**9A.44.010**). Again, the degrees are defined by the age of the victim and the age difference between the victim and suspect:

Crime	Victim Age	Suspect Age
1st Degree	Less than 12	At least 24 months older
2nd Degree	At least 12, less than 14	At least 36 months older
3rd Degree	At least 14, less than 16	At least 48 months older

As with the Rape of a Child statutes, the Child Molestation statutes assume the suspect and victim are not married.



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Sexual Offenses Involving Children – Sexual Misconduct with a Minor

It can still be a crime (**RCW 9A.44.093-096**) for an adult to have sexual intercourse (1st degree) or contact (2nd degree) with a minor who is at least 16 but less than 18 under the following conditions:

- The suspect is at least 60 months older, is in a significant relationship to the victim and abuses a supervisory position within that relationship in order to engage in or cause another person under the age 18 to engage in sexual intercourse with the victim.
- The suspect is a school employee.
- The suspect is a foster parent and the victim is his/her foster child.



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***Sexual Offenses Involving Children –
Communicate with a Minor for Immoral Purpose,
(RCW 9.68A.090)***

This statute covers any communication with minors that involves sexually suggestive language, including requests (in person or through electronic means) of nude or sexually suggestive photographs. The suspect must know or believe the victim is a minor. In general, this is a gross misdemeanor, but can be a class C felony if the suspect has a previous conviction for this or any other felony sexual offense *or* if the contact occurred through electronic means.



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Sexual Offenses Involving Children – Sexual Exploitation of a Minor, (RCW 9.68A.040)

A suspect uses threats or force to compel a minor to engage in sexually explicit conduct knowing that such conduct will be photographed or part of a live performance. S.E.M. can also occur when a suspect aids, invites, employs, authorizes or causes a minor to engage in sexually explicit conduct knowing that the minor will be photographed or part of a live performance. This section also applies to parents or guardians who permit minors to engage in sexually explicit conduct.

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Sexual Offenses Involving Children – Commercial Sexual Abuse of a Minor, (RCW 9.68A.100)

Commercial sexual abuse of a minor occurs when a suspect pays a fee to a minor or a third party as compensation for the minor engaging in sexual conduct (either sexual intercourse or sexual contact) with him or her. The sexual conduct does not have to occur for this to be charged, a simple offer and agreement (with the minor or third party) of sexual conduct for a fee is sufficient.

You may recall from the Human Trafficking training module last year that Commercial Sexual Exploitation of Children (CSEC) includes the **prostitution of children, child pornography, child sex tourism** and other forms of transactional sex where a child engages in sexual activities to have key needs fulfilled, such as food, shelter or access to education. It includes forms of transactional sex where the sexual abuse of children is not stopped or reported by household members, due to benefits derived by the household from the perpetrator. CSEC also potentially includes **arranged marriages** involving children under the age of 18 years, where the child has not freely consented to marriage and where the child is sexually abused.

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Sexual Offenses Involving Children – Possession of Depictions of Minors Engaged in Sexually Explicit Conduct , (RCW 9.68A.070)

In 2010 the name of this statute changed from Child Pornography. The term was found to be vague, hence the change. The crime is fairly self explanatory, but includes any visual or printed matter of minors engaged in sexually explicit conduct. As with CSAM, sexual conduct means either sexual intercourse or sexual contact.

Simply viewing depictions of minors engaged in sexually explicit conduct is also a crime (**RCW 9.68A.075**). This includes depictions viewed online, as well as printed material. In order to prove this crime we must show that the viewing was more than accidental. This can be shown through a number of factors including but not limited to: the title, text and content of the visual or printed matter, the suspect's internet history, search terms, download activity and the number of images.

More and more, we are responding to calls of "sexting" involving minors. In general, our prosecutor's office has determined that minors sharing nude photos of themselves with other minors is not criminal, however ill-advised. Sharing such photos can be criminal when the photo is used to harass or intimidate the victim (see Cyberstalking - **RCW 9.61.260**). A rule of thumb: If the age difference isn't criminal for a sex act, it probably isn't criminal for sexting either.

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Investigating Sex Crimes

In the late 1990's, the Sheriff's Office participated in the development of the King County Special Assault Network Agreement. This agreement developed a standard operating procedure among law enforcement, social service agencies, medical providers, advocates and prosecutors for investigating sexual assault and abuse/neglect crimes. The purpose of the agreement is to foster cooperative investigations so that the actions of one agency don't compromise the goals of another agency. Further, it strives to insure:

- Investigations are thorough, objective, and complete.
- We minimize distress for people interviewed during investigations.
- We reduce the number of investigative interviews of victims.
- We recognize and address the needs of special populations.

The King County Special Assault Network Agreement represents "best practices" for conducting these sensitive investigations and is consistent with practices of other counties and states around the country.

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Initial Response

Most often, patrol will make initial contact with a person reporting a sex crime. Sometimes, the victim of the assault is not present. This should not impact our ability to document the information. Take the initial information from the RP. Interviews with sexual assault victims will be done at a later time.

Things to consider:

- If suspect has immediate access (lives in the same household or shares custody) to victim, do we need to take the child into protective custody (**RCW 26.44.056**)?
- Law enforcement officers are prohibited from investigating an allegation of abuse or neglect *involving a child for whom the officer is, or has been, a parent, guardian, or foster parent*, (**Rodriguez v. Perez, 2000**)
- Guard against editorializing or expressing your opinion of the case or the victim in the incident report. If you have opinions to pass on (which SAU detectives do appreciate), give the detective a call. Remember anything you write down, whether an incident report, officer witness statement or officer's report is part of the public record. E-mails and text messages may also be subject to discovery.
- Remember to list **where the crime occurred as the location of occurrence**. Often, the crime is reported at a different time and location than where it actually occurred.

A report should be taken regardless of the time delay in reporting. Even if the crime is beyond the statute of limitations for prosecution, it is important to document it. Even if a victim's case is not prosecutable, they could testify in future trials involving the same suspect. The documentation is important, not only to that victim who knows we care, but that report may help another victim.

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Crime Scene Investigation:

Like any other crime, identify the crime scene if at all possible. Scenes can include a home, motel room, an outdoor site, vehicle, etc.

- Secure and wait for SAU response if a call out is necessary (warrant, suspect in custody etc.).
- If there is more than 1 crime scene, secure all of them.
- Photograph scene, photograph injuries of person, (photograph if no injuries seen as well).
- Collect evidence, i.e., clothing, bedding, weapons.
- Contact *witnesses* (the victim will be interviewed by SAU or a child interview specialist).
- If suspect is in custody and SAU is not responding, get statement, take clothing (warrant?), impound vehicle if necessary.
- Get current and collateral phone numbers as victims often do not return to their home for fear of retaliation.

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Statements and Interviews with Victims (Teens and Adults):

Victims and witnesses should be interviewed separately and away from other family members. Follow up interviews with those individuals may be useful to corroborate testimony so it is important to preserve their own account of the events.

Deputies need to gather the basic facts to write the incident report, however it is not necessary to take a formal statement (written or recorded) from the victim. Generally speaking (with one exception), patrol deputies should not take statements from victims of sex crimes. As part of the Network Agreement, we try to minimize the number of times victims are interviewed and have to tell their stories. Kids 11 and under who are victims of sex crimes will be interviewed by one of the Child Interview Specialists who work for the Prosecutor's Office. Victims 12 and older will either be interviewed by the assigned detective or jointly with the detective and a prosecutor.

The exception is for victims who probably won't be available or will be difficult to track down later. If you are taking a report from a victim who lacks an address and phone numbers, please take a detailed statement. (Always confirm contact info for victims and witnesses, even if it is already in IRIS!) Get several points of contact that they can be reached through later (close friends and family members, email addresses or social media pages) and include the information in the report.

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Statements and Interviews with Victims (11 and Younger):

When the victim is 11 years old or younger, deputies should gather as much information as possible from *the first person the child told* and take a statement from that person. *If the information is not available from any other source*, you can ask young children basic questions including:

- What happened?
- Where did it happen?
- Who did it?
- Are you injured?

Formal interviews with children ages 4-11 and those with developmental delays are conducted by the Child Interview Specialists employed by the King County Prosecutor's Office and are audio and video recorded. Except in rare cases, children ages 0-3 are not formally interviewed as they are generally not considered competent to testify. Any abuse or neglect allegation involving children 0-3 years old should be screened with SAU for a detective callout as prosecution of these cases relies almost exclusively on witness statements, medical records, documentation of injuries and suspect statements.

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A word about sexual assault victims...

SAU detectives routinely investigate crimes against prostitutes, workers involved in the sex industry and others engaged in high-risk behaviors because they are particularly vulnerable to sexual assault. Treat these victims the same as any other victim. Make sure that you do not appear judgmental or condemning. These victims will not be prosecuted for the acts they were engaged in at the time the crime occurred. Your conversation with them should be focused on the crime they are reporting, not crimes they may have been committing. Similarly, language that conveys judgment about a victim's actions should be avoided in your report.



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Contacting Suspects

Suspects ***NOT*** in custody:

If the victim is not in immediate danger, the crime is not DV, or a DV crime occurred more than four hours ago, it is often to our best advantage to wait to contact the suspect. This allows detectives time to gather available facts and evidence before attempting a suspect interview. Deputies should screen such cases with an SAU sergeant prior to attempting contact with a suspect.

Suspect in custody:

If the suspect of a sexual assault is in custody and has not invoked his Miranda Rights, the case should be screened with SAU for a detective callout.



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Recording Statements:

Recorded statements are preferable to handwritten statements because they are more detailed and capture the questions asked and victim's exact words and tone.

Washington is a two-party consent state when it comes to recording conversations. If you take a recorded statement, you must activate the device and *announce that the statement is being recorded*. The recording should also include:

- Date and time at the beginning and end of the recording
- Your location
- Case number
- Names of all people present
- If Miranda warnings are given during the interview, they must be included on the recording



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Recording Statements (cont.):

Here are a few tips for taking quality recorded statements:

- Conduct the interview in a quiet, private area.
- Be aware of and try to minimize background noise, such as shuffling paper.
- Do not talk over the person you are interviewing.
- Remember that the statement must be in the interviewee's words because it is their statement.
- Ask open ended questions and let the person explain with as little interruptions as possible. It may be necessary to help keep their explanations on track but generally they should be allowed to talk.
- If you do record a statement, always burn two CD's. Place one into evidence and forward one to the detective or prosecutor, depending on the crime.



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Medical Treatment:

If the sexual assault has occurred within 5 days of the report to law enforcement (3 days in prepubescent children), refer the victim to the closest medical facility's emergency department. At the hospital, specially trained nurses will collect evidence in the form of clothing and a sexual assault kit. Victims can also be referred to Harborview Center of Sexual Assault and Traumatic Stress (HCSATS). HCSATS offers medical treatment, as well as counseling services. They are available 24 hours a day.

- Phone: 206-744-1600
- TDD/TTY: 206-744-1616
- Fax: 206-744-1614
- Website: depts.washington.edu/hcsats/

If the victim or family needs assistance with transportation, every effort should be made to assist them. Prior to leaving the scene, have the victim (or their parent if the child is 13 or younger) sign a medical release.



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Sexual Assault Kits:

Commonly known as "rape kits," they are often critical pieces of evidence in sexual assault cases. Many hospitals have nurses on staff who are specially trained in evidence collection procedures. Those hospitals who don't will refer the victim to another facility. All other emergency departments transfer victims in need of such exams to these facilities. This program is expanding in the region, so check with your local hospital before sending a victim there if you aren't sure.

SAU Detectives collect the kits from Harborview Medical Center. All other hospitals will call for patrol to pick up the collected items i.e., sexual assault kit and clothing. See **G.O.M. 8.02.035** for proper handling and packaging of such evidence.



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Sexual Assault Advocates:

Similar to domestic violence crimes, advocates are available to assist sexual assault victims through the legal process. The King County Sexual Assault Resource Center offers both counseling and advocacy services for victims. Their information (as well as the information for HCSATS) can also be found on the DVPA form.

King County Sexual Assault Resource Center (KCSARC):

Phone: 425-226-5062 (this number is good for business and after hours.) OR 1-800-99 VOICE

Website: (86423)

www.kcsarc.org

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Special Assault Unit Callout?

The Special Assault Unit is responsible for investigating all allegations of sexual abuse as well as felony physical abuse and maltreatment cases. SAU detectives also respond jointly with Major Crimes on all child death cases. SAU sergeants are available on weekdays and the CID duty sergeant is available on weekends to screen cases for a callout (sergeants should call the Communications Center to reach the CID duty sergeant on weekends). In general, the following criteria are used to screen for a detective call out, (per **G.O.M. 11.00.080**):

- The suspect is not known to the victim.
- A rape with a known crime scene.
- A search warrant is needed to collect evidence either from the scene or suspect.
- When a rape suspect is in-custody and has not invoked his/her rights.
- Any substantial injury to a child, elderly person or other dependent adult believed to be caused by abuse.
- Any substantial injury to a child age 3 or younger.

When in doubt, give us a call!

Sgt. B.J. Myers: 206-391-1651 (Pct. 2 & 5 cases)

Sgt. Brad Turi: 206-549-0083 (Pct. 3 & 4 cases)

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If you're interested in learning more about sexual assault investigations or are considering pursuing a career path that includes the Special Assault Unit, the following documents, websites and training are valuable resources:

- **KC Special Assault Network Agreement**
- **Child Abuse Interview and Assessment Training (CJTC)**
- **BlueLine LLC** offers periodic child abuse and sexual abuse training
- **Interview/interrogation training**
- **Rape, Abuse and Incest National Network (RAINN)**
- **King County Sexual Assault Resource Center**

Talk to a Special Assault Unit detective or sergeant!